

**ORIGINAL****BEFORE THE BOARD OF REAL ESTATE APPRAISERS****STATE OF IDAHO**

In the Matter of the License of:	)	
	)	Case No. REA-2007-148
DENNIS DEE McARTHUR,	)	
License No. CRA-113,	)	<b>STIPULATION AND</b>
	)	<b>CONSENT ORDER</b>
Respondent.	)	
_____	)	

WHEREAS, information has been received by the Idaho State Board of Real Estate Appraisers (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Dennis Dee McArthur ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

A.2. The Board has issued License No. CRA-113 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code and the Board's rules at IDAPA 24.18.01, *et seq.*

A.3. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices ("USPAP").

A.4. On or about August 14, 2006, Respondent prepared an appraisal report for the property located at 301 Indian Creek Road in Hailey, Idaho (the "Subject Property").

A.5. Respondent's appraisal report and work file for the Subject Property failed to meet the following requirements of applicable USPAP Standards (2006):

a. Standards Rules 1-1(a) and (c):

i. Respondent indicated that there were discussions with the owner regarding the previous sale of the subject and the interior condition of the property. The property sold on July 1, 2005, for \$995,000. Although Respondent revealed the prior sale at \$995,000, there was no discussion of the sale or why the 2006 appraisal was 20% higher than the sale the previous year, especially when the report indicated the market was stable.

ii. Respondent included a detached studio apartment in the square footage of the main residence in his sales comparison analysis and did not explain why or if it should be valued at the same value per square foot of gross living area as the main house. All of the comparables were smaller than the subject, so including the studio in the gross living area of the main house would overvalue the subject property by using the same square foot size adjustment for both the main house and the studio if the studio did not have the same value per square foot.

iii. The property was zoned R-5 with a 5-acre minimum, according to research within the report. There was no explanation why the 1.48-acre property did not conform to 5-acre minimum zoning. There was no support of the site value comparisons, which should have been included.

b. Standards Rule 1-4(a): The appraisal included three comparables from 2005. More recent sales appear to have been available but were not included. The sales comparison approach did not support the value estimate or enable the reader to understand the analyses.

c. Standards Rule 1-5(b): The previous sale of the subject in 2005 at \$995,000 was reported but not analyzed.

d. Ethics Rule, Recordkeeping: Respondent did not have a complete work file in possession and reconstructed a new report for the file, with different adjustments on the grid from the original report.

A.6. The allegations of Paragraphs A.4 and A.5, if proven, would violate the laws and rules governing the practice of real estate appraising, specifically Idaho Code § 54-4107(1)(e) and IDAPA 24.18.01.700. Violations of these laws and rules constitute grounds for disciplinary action against Respondent's license to practice real estate appraising in the State of Idaho.

### **B. Waiver of Procedural Rights**

I, Dennis Dee McArthur, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and acknowledge the allegations pending before the Board, as stated in Section A, Paragraphs A.4 and A.5. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraising in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

### **C. Stipulated Discipline**

C.1. Respondent shall pay to the Board an administrative fine in the amount of Seven Hundred Fifty and No/100 Dollars (\$750.00) within sixty (60) days of the entry of the Board's Order.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of One Thousand and No/100 Dollars (\$1,000.00) within sixty (60) days of the entry of the Board's Order.

C.3. Within nine (9) months of the date of entry of the Board's Order, or within three (3) months prior to entry of the Board's Order, Respondent shall obtain the following courses from Board-approved providers:

- a. A 15-classroom-hour<sup>1</sup> National USPAP course; and
- b. A 30-classroom-hour residential sales comparison approach course.

Respondent shall submit proof of attendance to the Board within 30 days of attendance of each continuing education course. This continuing education shall be in addition to any continuing education Respondent is required to obtain to maintain his license.

C.4. Respondent's License No. CRA-113 shall be placed on probation for a period of one (1) year from the date of entry of the Board's Order. The conditions of probation are as follows:

- a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraising in the State of Idaho.
- b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.
- c. If Respondent leaves Idaho for three (3) continuous months, or resides or practices outside of the state, Respondent must notify the Board in writing of the dates of departure, address of intended residence or place of business, and whether

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<sup>1</sup> Classroom hours as used in this Stipulation and Consent Order and in the Rules of the Real Estate Appraiser's Board, IDAPA 24.18.01.000 *et seq.*, includes instruction in which:

(a) the appraiser taking the class and the instructor are physically present in the same location at the same time (traditional classroom hours), or

(b) the appraiser taking the class and the instructor are connected at the same time through videoconferencing or a similar technology, the appraiser taking the class is present in the same location with other appraisers taking the class, and the facilities are set up for interactive two-way communication between the instructor and the appraisers taking the class that allows questions to be posed by appraisers taking the class and answered by the instructor during the class (interactive distance learning classroom hours).

Classroom hours do not include on-line courses in which the appraiser taking the class is at a remote location from the other appraisers taking the class or in which the appraiser taking the class is not able to pose questions to the instructor and receive answers in real time.

Respondent intends to return. Periods of time spent outside Idaho will not apply to satisfy this probationary period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and shall make all relevant files, records, correspondence or other documents available immediately upon the demand of any member of the Board and its agents.

C.5. At the conclusion of the one-year probationary period and provided Respondent has complied with all other terms of this Stipulation, Respondent may request from the Board termination of the conditions of probation. Any request for termination of probation must be accompanied by written proof of compliance with the terms of this Stipulation.

C.6. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.7. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

#### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and

admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

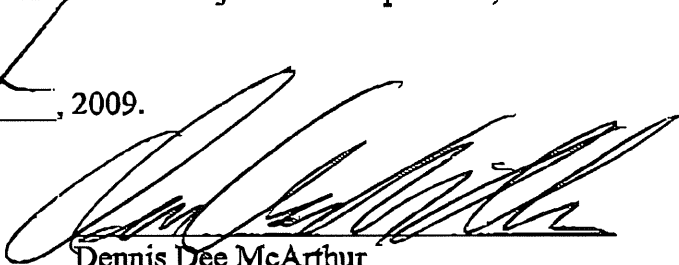
c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.


DATED this 16 day of Sept, 2009.

  
Dennis Dee McArthur  
Respondent

Approved as to form.

DATED this 17<sup>th</sup> day of September 2009.

RINGERT LAW CHARTERED

By   
Jennifer Reid Mahoney  
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 16<sup>th</sup> day of September, 2009.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By Michael S. Gilmore  
Michael S. Gilmore  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-4106(2)(h), the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 19 day of October, 2009. IT IS SO ORDERED.

IDAHO STATE BOARD  
OF REAL ESTATE APPRAISERS

By Rick Bachmeier  
Rick Bachmeier, Chair  
Vice Chair



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of October 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Dennis Dee McArthur  
2606 San Marco Way  
Nampa, ID 83686

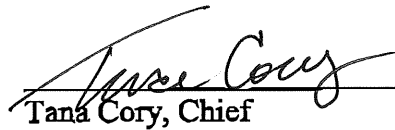
- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

James G. Reid  
Ringert Law Chartered  
P.O. Box 2773  
Boise, ID 83707

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Michael S. Gilmore  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail



Tana Cory, Chief  
Bureau of Occupational Licenses